

## **REMARKS/ARGUMENTS**

Applicants appreciate the review of the present application as evidenced by the Final Official Action. Applicants acknowledge that claims 1-12 were elected on October 27, 2003 during a telephone conversation between Examiner Nguyen and Rebecca Fiechtl. As such, claims 13 and 14 have been withdrawn. Based upon the previously presented amendments to independent claims 1, 7, 11, and 12, Applicants respectfully traverse the rejections of claims 1-12. In addition, independent claim 1 is amended to correct the lack of antecedent basis, as requested by the Final Official Action. Therefore, no new issues are raised by this amendment. In light of the currently and previously presented amendments and subsequent remarks, Applicants respectfully request reconsideration and allowance of the present application.

***A. The Rejection of Claim 1 under 35 U.S.C. § 112, Second Paragraph, is Overcome***

The Final Official Action rejected independent claim 1 under 35 U.S.C. § 112, second paragraph, for lacking an antecedent basis. In particular, the Final Official Action states that there is insufficient antecedent basis for the limitation “the second server” in the last paragraph of claim 1. Independent claim 1 has been amended to change “the second server” to “a second server” in the last paragraph. Thus, the need for an antecedent basis has been obviated; and Applicants submit that the rejection of independent claim 1 under 35 U.S.C. § 112, second paragraph, is overcome.

***B. The Rejections of Claims 1-12 under 35 U.S.C. § 103(a) is Overcome***

The Final Official Action rejected claims 1-2, 7, 11 and 12 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,029,141 to Bezos et al. The Final Official Action also rejected claims 3-5, 8 and 9 under 35 U.S.C. § 103(a) as being unpatentable over the Bezos ‘141 patent in view of U.S. Patent No. 6,484,149 to Jammes et al. Furthermore, the Final Official Action rejected claims 6 and 10 under 35 U.S.C. § 103(a) as being unpatentable over the Bezos ‘141 patent in view of U.S. Patent No. 5,890,138 to Godin et al. and further in view of U.S.

Patent No. 5,710,887 to Chelliah et al. Based upon the previously presented amendments to independent claims 1, 7, 11, and 12, and the comments below, Applicants submit that the rejection of claims 1-12 under 35 U.S.C. § 103(a) is overcome.

The Bezos '141 patent describes a software system that allows an Internet sales entity, referred to as the "merchant," to efficiently market and sell goods in cooperation with web sites or other network sites of respective business partners, referred to as "associates." Software runs on the merchant's web site such that an entity can enroll as an associate and can then disseminate catalogs, such as web documents, PUSH documents, email newsletters, etc., that include the associate's reviews and/or recommendations on specific products sold by the merchant. The associate catalog documents therefore include product-specific hyperlinks, referred to as "referral links," that allow potential customers to link to the merchant's web site to initiate purchases of such products from the merchant. See Col. 1, line 50-66, Col. 6, lines 31-47 and Col. 7, lines 6-20. If the customer subsequently purchases the selected product from the merchant site, referral processing software running on the merchant site automatically credits the referring associate for the referral by, for example, applying a commission to an account of the associate. See Col. 2, lines 3-13 and Col. 7, lines 21-40. The merchant site also preferably includes code that maintains a unified shopping cart for each ongoing customer shopping session. Thus, the shopping cart may persist on the merchant site for an extended period of time, such as one week, following the most recent access by the customer to allow the customer to conduct extended shopping sessions. To purchase the products represented within the shopping cart, the customer proceeds to a "check out" area of the merchant site and submits an order. See Col. 2, lines 48-65 and Col. 7, line 52 to Col. 8, line 16. Thus, a benefit of the system of the Bezos '141 patent is that it exposes the merchant's web site to the public by encouraging associates to set up outgoing links to the merchant's site. See Col. 3, lines 29-32 and Col. 9, lines 30-37. The Bezos '141 patent does not describe any technique for ensuring the information regarding the merchant's products and offerings is up-to-date. As such, a customer would have to access the merchant's web site to verify that the information on the associate's web site is accurate and to purchase the merchant's offerings.

The Jammes '149 patent discloses software tools for designing and operating an electronic store via a distributed network such as the Internet. The software tools permit a customer to use a standard web browser to access the electronic store and a store designer uses an enhanced web browser to establish and manage inventory information for the electronic store and to organize the presentation of inventory through a collection of linked web pages. See Col. 7, line 66 to Col. 8, line 10. The enhanced web browser permits a merchant to design an electronic store over the Internet by creating data records that represent products and groups and the relationships between them. The data records are stored in a product information database. See Col. 9, line 59-64. A store designer initiates the store design application by using the enhanced web browser to establish a communication link to the Internet. The enhanced web browser accesses a web server housing an electronic store by transmitting, in part, a URL value to the Internet that uniquely identifies the web server hosting the electronic store design application. The web server responds by transmitting initial HTTP data to the enhanced web browser. Embedded in the HTTP data are Internet locations, such as additional URL's, from which executable instructions of the respective controls can be downloaded to the enhanced web browser. See Col. 12, lines 1-44. To integrate inventory information in a computer database with web pages of an electronic store, data records representing groups are created and data records representing products are also created. The hierarchy of the groups and products is then organized and HTML template pages are prepared to ultimately display information about groups or products to a consumer. Database references are embedded in the template files to extract information about a product or group from the product information database and to translate the result set into HTML coded text. Thus, a script embedded in a template file may be accessed and executed each time a consumer requests a web page based on that template file. The web server processes the script to extract information from the product information database and merges the extracted information with the template file to construct the finished web page that is sent to the requesting consumer. See Col. 42, line 1 to Col. 43, line 12.

Therefore, in operation, the software tools disclosed by the Jammes '149 patent allow a consumer using a standard web browser to access an electronic store by requesting a web page of the electronic store. The web server receives the request and examines the URL of the request to

determine the name of the template file specified by the URL. The web server invokes an HTML page engine that scans the template file for query scripts and if one exists, the HTML page engine uses a database query in the query script to query the product information database to extract one or more group or product data records that are subordinate to a group represented by a hyperlink selected by a consumer. The HTML page engine receives the result set generated by the query and translates the result set into HTML-coded results which, for example, generates a hyperlink when processed by a web browser. The HTML page engine makes a working copy of the template file, removes the query script from the working copy, and replaces the query script with the HTML coded results. Once all of the query scripts are addressed as described above, the HTML page engine passes the working copy of the template file, which is now fully HTML compliant to the web server. The web server then transmits the HTML compliant file to the web browser over the Internet. See Col. 45, line 7 to Col. 46, line 7. Thus, the Jammes '149 patent discloses how a merchant can set up an electronic store to sell the merchant's own products, where the web pages of the electronic store are updated with the merchant's current inventory information before being presented to the requesting consumer.

The Chelliah '887 patent describes a system for facilitating commercial transactions between multiple customers and at least one supplier of items by providing communications between a supplier and at least one customer site. See Col. 3, lines 6-11. In particular, the system provides commerce subsystems from which each electronic store in an electronic mall may select to suit its particular operating style. The commerce subsystems are therefore accessible to multiple stores at the same time. For instance, a commerce subsystem may store information about particular consumers that may be shared among the electronic stores. See Col. 6, line 59 to Col. 7, line 30. A typical transaction includes a customer entering a electronic storefront and being presented with the store's product database in connection with in-store sales, presented by the sales representative together with an incentives system and narrowcast advertising targeted at the customer through a promotions subsystem based upon the customer's demographics or purchasing habits as defined by a participant subsystem and customer accounts subsystem. See Col. 12, lines 29-42. Thus, the subsystems described above may be shared by multiple electronic stores such that each electronic store may utilize the information contained in

the subsystems to customize the information each store presents to the particular consumer as desired by the particular electronic store.

As described previously, the Godin '138 patent discloses a computerized auction method for use via an auction web site that users may access from remote terminals. For security purposes, the users that visit the auction web site can access web servers 10 and 12, but only have access to a database server through a firewall. The database server maintains various database fields with respect to each of the products that are slated to be auctioned, such as a UPC code, a product description, an auction date and time, a current quantity, a starting and closing price for the auction, product images, and other information regarding the product. See Col. 3, lines 24-41 and Figure 1. Thus, the web servers do not maintain sensitive data, but merely retrieve it from the database when requested by the user. See Col. 5, lines 61-63. As shown in Figure 3, users participate in the auction process by visiting the auction web site and viewing a screen entitled "Next on the Block" (see Figure 7) that contains information on upcoming auctions and the products slated for auction. When a user chooses to take part in an auction that is in progress on the auction web site, the product information and the dynamic variables, which are the number of units remaining, the price of a unit, and the time remaining in the auction, are presented to the user. See Col. 6, lines 1-36. The dynamic variables, provided by the database server to the web server, are frequently updated, typically at a rate between 5 and 10 seconds. The price decreases in a predetermined manner as the time remaining in the auction decreases. See Col. 6, lines 37-45 and Col. 8, lines 21-25. A user may purchase the product up until the number of units left is zero or the time for the auction has run out. If a user purchases the product, the auction web site presents the user with screens to collect the user's financial information, which then may be confirmed by transmitting the financial information to a bank system via the database server for immediate authorization. Real time feedback then may be provided directly to the user from the bank system. See Col. 6, line 56 to Col. 7, line 30.

In contrast to the disclosures of the Bezos '141 patent, the Jammes '149 patent, the Chelliah '887 patent and the Godin '138 patent, independent claims 1, 7, 11, and 12 recite methods for providing real-time product information, i.e., content that includes variable data, which is associated with an offering made by a seller via an associate's web site, which is

maintained on a first server, where the associate is an entity other than the seller. In addition, independent claims 1, 7, 11 and 12 recite that updates to any variable data included in the offering contained in the associate's web site are provided substantially continuously to the client device, such as by the second server. For example, as described in paragraphs 19, 20 and 21 of the specification, systems and methods consistent with the claimed invention embed product offerings and provide real-time product information to clients via an associate's web site. Thus, the claimed invention provides embedded product offerings with real-time product information, which enable a business to sell goods via the Internet or other interactive network *without requiring a user to visit the seller's web site and without risk that the offering, such as the price or availability, has changed from that originally displayed.* The claimed invention therefore describes systems and methods for *continuously updating the seller's offering on an associate's web site to reflect real-time product information.* As soon as the specified product and/or specified price are no longer available, the offering is updated to reflect a new price and/or new product that is available.

For example, a first server may provide the associate's web page, such as for a travel agency. The web page may include advertisements not only of the travel agency products, but of special promotions offered by a hotel or airline. A second server may provide the first server with updates, such as updates of availability or price of the promotions, such that the web page provided to the client device by the first server includes the updated information. Alternatively, as described below, the second server may provide updates directly to the client device. Notably, however, while the web page is provided by the first server, the information that defines the advertisement is provided by the second server, but a user never has to access any web page other than the associate's web page to receive up-to-date information regarding the advertisement.

In further embodiments of the claimed invention, as recited in dependent claims 3, 4, and 8, executable code may be transmitted from the first server to the client device, and the executable code may periodically establish a communication link from the client device to the second server to receive any updates to variable data referenced in the content. For example, as described in paragraphs 35-40 and shown in Figures 2-6, the second server (i.e., the

supplemental server 220) retrieves variable data 272 and executable code 279 from memory 270 upon request from the first server 120, and transmits the variable data and executable code to the first server, which transmits the data and code to the client device 102. Alternatively, the supplemental server 220 may transmit the data and code directly to the client device 102. The executable code transmitted to the client 102 from the supplemental server 220 substantially continuously requests updates for the variable data from the supplemental server so that the variable data displayed on the client device reflects the most up-to-date information available. The substantially continuous requests by the executable code on the client device may also be accomplished by maintaining an open connection between the client device 102 and the supplemental server 220, such that the supplemental server may transmit updated information as it is received without requiring a request from the client device. As such, the client device and the supplemental server can directly communicate without involvement by the first server that originally provided the content data to the client device.

While the Bezos '141 patent describes a software system that allows an Internet sales entity, referred to as the "merchant," to market and sell goods in cooperation with web sites or other network sites of respective business partners, referred to as "associates," the Bezos '141 patent does not describe any technique for ensuring the information on the associate's web site regarding the merchant's products and offerings is up-to-date. As such, a customer would have to access the merchant's web site to verify that the information on the associate's web site is accurate and to purchase the merchant's offerings. Thus, the Bezos '141 patent does not teach or suggest that updates to any variable data included in the offering contained in the associate's web site are provided substantially continuously to the client device, such as by the second server as recited by independent claims 1, 7, 11, and 12.

While the Jammes '149 patent, the Chelliah '887 patent and the Godin '138 patent disclose creating and/or updating web pages presented to a user, none of these references teach or suggest providing real-time product information, i.e., content that includes variable data, which is associated with an offering made by a seller via an associate's web site that is maintained by a first server, where the associate is an entity other than the seller, as recited by previously presented independent claims 1, 7, 11 and 12. Thus, the Jammes '149 patent, the

Chelliah '887 patent and the Godin '138 patent also do not disclose continuously updating the variable data contained in the offering, such as by a second server, as also recited by independent claims 1, 7, 11 and 12.

In particular, the Jammes '149 patent discloses how a merchant can set up an electronic store to sell the merchant's own products, where the web pages of the electronic store are updated with the merchant's current inventory information before being presented to the requesting consumer. The Chelliah '887 patent discloses subsystems that may be shared by multiple electronic stores such that each electronic store may utilize the information contained in the subsystems to customize the information each store presents to a particular consumer via their own web site. Additionally, the updates to the dynamic variables described in the Godin '138 patent occur on the auction web site itself (i.e., the seller's web site), not on a separate associate's web site that contains an offering made by the seller. Thus, none of the Jammes '149 patent, the Chelliah '887 patent and/or the Godin '138 patent teach or suggest providing real-time product information, i.e., content that includes variable data, which is associated with an offering made by a seller via an associate's web site, where the associate is an entity other than the seller, to continuously update the variable data contained in the offering, such as by a second server, as recited by independent claims 1, 7, 11 and 12.

In addition, there is no motivation contained in any of the cited references to combine the Bezos '141 patent with any of the Jammes '149 patent, the Chelliah '887 patent and/or the Godin '138 patent to disclose updating the variable data contained in an offering made by a seller via an associate's web site because, as described above, the Jammes '149 patent, Chelliah '887 patent and Godin '138 patent disclose only updating a merchant's own web site/web page with the merchant's own information or information contained in databases the merchant can freely access along with other merchants. None of the Jammes '149 patent, the Chelliah '887 patent and/or the Godin '138 patent describe any technique for updating a seller's offering that is located on an associate's web site from a server that is not controlled by and/or freely accessible to the associate, such that combining the Bezos '141 patent with any of the Jammes '149 patent, the Chelliah '887 patent and/or the Godin '138 patent does not disclose updating the variable

data contained in an offering made by a seller via an associate's web site, as recited by independent claims 1, 7, 11 and 12.

Furthermore, even if the cited references were to be combined, the combination would not teach or suggest the claimed invention. In this regard, the secondary references, that is, the Jammes '149 patent, the Chelliah '887 patent and/or the Godin '138 patent, only disclose the updating of a merchant's own web site/web page with the merchant's own information or information contained in databases the merchant can freely access along with other merchants. As such, the combination of these secondary references with the Bezos '141 patent would teach and suggest that the merchant's web site in the Bezos system would be updated, not that the associates' web sites would be similarly updated, especially considering that the primary purpose of the associates' web sites in the Bezos system is to provide links to the merchant's web site and that it is at the merchant's web site that a customer can generally obtain more detailed product information and can actually place an order.

Moreover, none of the Bezos '141 patent, the Jammes '149 patent, the Chelliah '887 patent and/or the Godin '138 patent, taken either individually or in combination, disclose that executable code may be transmitted from the first server to the client device, and the executable code may periodically establish a communication link from the client device to the second server to receive any updates to variable data referenced in the content, as recited by dependent claims 3, 4, and 8. As stated above, the Bezos '141 patent does not disclose any technique for updating the seller information located on the associate's web site. In addition, none of the Jammes '149 patent, the Chelliah '887 patent and/or the Godin '138 patent disclose updating variable data contained in an offering made by a seller via an associate's web site, as described above, let alone utilizing executable code executing on the client device to periodically establish a communication link with the second server to receive the updates to the variable data referenced in the content of the offering made by the seller via the associate's web site, as recited by dependent claims 3, 4, and 8.

For the forgoing reasons, none of the Bezos '141 patent, the Jammes '149 patent, the Chelliah '887 patent and/or the Godin '138 patent, taken either individually or in combination, teach or suggest the methods for providing and displaying, respectively, real-time product

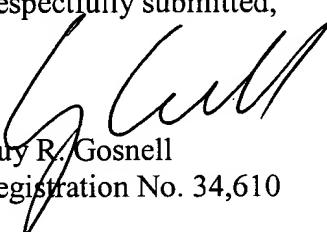
information of amended independent claims 1, 7, 11 and 12 or any of the claims that depend therefrom, namely claims 2-6, and 8-10. Thus, the rejection of claims 1-12 under 35 U.S.C. § 103(a) is overcome.

## CONCLUSION

In view of the remarks presented above, it is respectfully submitted that all of the present claims of the present application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

  
Guy R. Gosnell  
Registration No. 34,610

**Customer No. 00826**

**ALSTON & BIRD LLP**

Bank of America Plaza

101 South Tryon Street, Suite 4000

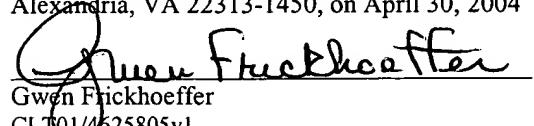
Charlotte, NC 28280-4000

Tel Charlotte Office (704) 444-1000

Fax Charlotte Office (704) 444-1111

## CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on April 30, 2004

  
Gwen Frickhoeffer  
CLT01/4625805v1